

# The Injustice of the Admissibility of Hearsay in War Crimes Trials

[Carlos Whitlock Porter](#)

## General discussion of the problem of hearsay

A best-selling English writer, Jennifer Worth, recently cited a Jewish psychiatrist, Dr. Elisabeth Kübler Ross, who claimed that her father and brother both “witnessed” German soldiers machine-gunning Jewish refugees attempting to swim across a river into Switzerland. (Exact quote: “Her father and brother later witnessed Nazi machine gunners shooting a human river” [sic – “a human river”, no less! – C.P.] “of Jewish refugees as they attempted to cross the Rhine” [one of the largest rivers in Europe, usually hundreds of feet wide. – C.P.] “from Germany to the safety of Switzerland.” (quoted by Worth, *In the Midst of Life*, p. 51; Worth makes no mention of any specific place names or dates. I am unable to find any mention of this incident in the works of Kübler Ross.)

This would, of course, have been an international incident involving a neutral country, Switzerland, Germany’s “protecting power” under the Geneva Convention – rather an illogical thing to do, one might tend to think. Any such incident would have resulted in an international letter of protest by the Swiss government, followed by an official investigation and, we may sure, immense publicity. Thus, if any such incident ever actually occurred, it would be easy to verify.

Did Worth lie? Of course not. Worth might be gullible, but she believed what she was saying. Did Kübler Ross lie? Not necessarily.

Did her father and brother lie? Again, not necessarily. Kübler may have simply misunderstood them to say that they were witnesses, when in fact they had only heard about the incident. It is very easy to get this impression, even when it was never intended by the speaker: it is very difficult, weeks, months or years later, to be perfectly clear in one’s mind as to whether or not a person who tells you a shocking tale ever actually claimed to have witnessed it personally. In most cases, if you can track down the person who told the story and ask him whether he actually saw it, the answer will be something like “No, I didn’t see it myself, but everybody knew it”. The fact that he didn’t see it, that perhaps no one else saw it either, and that it is perfectly possible for “everybody to know” things which are not true at all, is considered perfectly irrelevant. That is the nature of hearsay. For this reason, hearsay is ordinarily inadmissible in criminal proceedings, without some particular guarantee of reliability (i.e., the so-called “exceptions to the hearsay rule”).

## Hearsay in law

In law, hearsay is an out-of-court statement (whether oral or written), offered to prove “the truth of the matter stated” (sometimes phrased as “the truth of what it asserts”). If it is offered to prove that the statement was made – but not necessarily that it is true – then it is not hearsay.

In war crimes trials – even those held being in The Hague today – this distinction is always dispensed with. Hearsay is simply declared to be admissible – subject, of course, to its “probative value” – according to which random accusations are declared to constitute the “truth” unless the defense can disprove them, thus inverting the burden of proof. Yet the defense is in no position to obtain further

information. You can question the “witnesses” all day long, and all they will ever say is, “I don’t know, all I know is what the other person told me”.

### **“War Crimes Reports”**

One particularly prevalent feature of all “war crimes trials” is the so-called “War Crimes Report”. There are hundreds of these “reports”, undoubtedly thousands. Legally, they are all hearsay, but “admissible hearsay”, of highly dubious credibility. For example, at Dachau, the “Chavez Report”, which was to have “proven” the existence of a “gas chamber” at Dachau, was never introduced into evidence, and the accusation was dropped before trial. Col. Chavez appeared as an expert witness at Dachau on Nov. 15, 1945, but made no mention of a gas chamber. The Chavez Report was then re-written and introduced into evidence at Nuremberg as documents 2430-PS and 159-L, even though it was known to be untrue. Chavez was never cross-examined on his “report”, since his “report” did not form part of his direct testimony.



*The defendants at the International Military Tribunal for the Far East. Photo May-June 1946  
[Public domain], via Wikimedia Commons.*

### **The Cross Examination of Fernand Gabrillagues**

The following article, reproduced in full, appeared on the front page of *The Advocate* – described as “North-Western Tasmania’s Only Daily Newspaper” – on January 18, 1947:

“SHOT EN MASSE BY JAPANESE

TOKYO. Friday (A.A.P.) – A French war crimes officer, Fernand Gabrillagues, told the tribunal how 65 French prisoners of war singing the “Marseillaise” were shot en masse by Japanese in Indo China. The Japanese then bayoneted the wounded with unbridled savagery.

On another occasion the Japanese butchered 200 French prisoners with axes and bayonets on “soil running with blood.”

Witness gave other details of obscene savagery and Japanese treatment of women.”

This is the sort of thing which often passes for “fact” in the 20th and 21st centuries. Fernand Gabrillagues was the author of a “war crimes report” regarding Japanese atrocities in French Indo-China. The “report” (referred to as a “deposition”), was introduced into evidence at the Tokyo Trial as “proof” of the “matter stated” – signed by the “expert witness”, Captain Fernand Gabrillagues, after which Gabrillagues appeared to testify and was cross-examined on his “report”.

On direct examination, he gave his date of birth as January 1, 1918, stating that he was a Bachelor of Letters and Master of Laws, outlining his other apparently impressive qualifications as an expert on “war crimes” and Delegate to the French War Crimes Office. His cross examination was less impressive, to say the least.

#### **Summary of admissions and claims made by Gabrillagues under cross-examination**

Gabrillagues was 29 years old at the time of his testimony. On cross examination, he admitted that he was a student drafted out of university and had never before been employed in any legal capacity before becoming a “war crimes officer”. He knew – and hoped – that men would be hanged on the basis of his report; it was written so that “war criminals” could be “rounded up”. Yet, as he readily admitted, he conducted no investigation; he interviewed no witnesses; he made no attempt to determine whether any of the accusations might be mistaken or untrue. He made no attempt to discover whether there might have been any reason why the Japanese acted as they did. He performed no checks to prevent the wholesale introduction of falsehood, erroneous information, hearsay or lies. It was “not his work” (i.e., not his job).

He was unwilling or unable to say which army he was in, for reasons which will become apparent; he was unwilling or unable to give the name of his commanding officer in French West Africa; he was unwilling or unable to say which French government his commanding general in Indochina was responsible to; he claimed he didn’t know who the “De Gaullists” were; he even claimed that he didn’t know the meaning of the words “resistance” or “underground”, although he knew the meaning of the words “guerrilla” and “franc-tireur”, which are exactly synonymous.

He was unable to state when the Japanese Army entered Northern and Southern Indo-China. Since the Japanese Army entered these territories in two different years, under an agreement with the Vichy government of France, this might have been important information, depending on when and where the atrocities were committed.

He was unwilling or unable to state whether or not “resistance members” wore uniforms. Finally, and most crucially, under pressure, he repeatedly admitted that the victims of these atrocities were indeed members of the “resistance” and that at least “some” of the civilian victims had been assisting the resistance, thus admitting that he knew the meaning of these words.

Four points should be noted here.

a) The President of the Tribunal did not, at least at this point, dispute the defense contention that the Vichy government was the legally recognized government of France; that non-uniformed resistance is illegal, and that guerrillas are not entitled to protection as prisoners of war;

b) That uniformed armies commit “atrocities” in reprisal for non-uniformed acts of resistance, and that many of the victims of these reprisals will inevitably be “innocent civilians”, in name or in fact, is a matter of course. That is the nature of guerrilla warfare, a fact deliberately exploited by all resistance groups. The more people killed in “atrocities” by the uniformed occupier, the more people will join the resistance! This is one of the reasons why non-uniformed resistance is considered illegal under international law.

c) It is obvious that Gabrillagues knew this, and that his refusal to say which army he was in, or which government his commanding officer was responsible to, or to admit that he was well aware of the meaning of the words “resistance” and “underground”, were a result of this knowledge, and of an awareness that any such admission on his part would tend to exculpate or explain the actions of the Japanese, at least in part.

Gabrillagues appears to have been a rather strange person: whether he was one of the most uncooperative, uncommunicative and evasive expert “witnesses” in legal history – or the most incompetent – or a mixture of both – is hard to tell. According to his family, he committed suicide in France in the early 1980s saying that his life had been a failure.

d) As far as one can determine, Gabrillagues was the only author of any “war crimes report” ever subjected to cross-examination as to his “report”, in any trial, anywhere, ever.

The following is that cross-examination.

(Excerpted from *Tokyo Trial transcript*, pp. 15,444-72)

#### **CROSS-EXAMINATION BY MR. LOGAN**

Q: [...] In your work as investigator, *did you interview any witnesses yourself* and take statements from them or did you get all the information contained in your affidavit from other affidavits?

A: I have misunderstood the question...

Q: When you received the documents respecting these incidents *did you go out and take any statements yourselves* from any of the people involved?

A: I read most of the affidavits and the complaints which were registered by witnesses.

Q: Did you ever question a witness yourself in connection with any of these incidents you have related in your statements?

A: I did not myself interrogate witnesses. It wasn't my work.

Q: Is it a fact that these prisoners of war mentioned in your statement were De Gaullists?

A: I do not know.

Q: Didn't you make any investigation to try to find out what army these soldiers belonged to?

A: Which soldiers?

Q: [The] prisoners of war you mention in your affidavit.

A: They belonged to the Indo-Chinese army.

Q: Were any of them De Gaullists?

A: I do not know.

Q: *Were any of them guerrillas?*

A: *Some of them belonged to the underground.*

Q: On what side were these Chinese troops? Were they on De Gaulle's side or were they on the side of the recognized French government, the Vichy government?

A: I have not understood the question.

Q: Didn't you say a moment ago that some of these troops – you didn't know whether De Gaullists or on the side of the Vichy Government – they were Chinese troops?

A: I don't believe I have spoken of Chinese troops.

Q: Indo-Chinese troops, what side were they on?

A: The Indo-Chinese troops were part of the French army of Indo-China.

Q: Were they under the command of the Vichy government at that time?

A: They were under the orders of the commanding general, the senior commanding general of the troops in Indo-China.

Q: For what government were they fighting?

A: The troops were fighting for France.

Q: When you say France, do you mean the Vichy Government?

A: France.

Q: You understand, of course, that the Japanese troops went into Indo-China under an agreement with the Vichy Government. Now, in your investigation did you find out that these Indo-Chinese troops were opposed to the Vichy Government?

A: I do not believe I have the information with me to answer this question.

Q: Didn't you think it important in your work as an investigator to find out what army, if any, these people [i.e., the victims of the alleged atrocities. – C.P.] were employed by at the time of these alleged atrocities?

A: I concerned myself solely with the identification and the search for war criminals.

Q: How can you determine who was a war criminal unless you know which army he is fighting for?

A: Criminals are judged by the crime which they commit.

Q: That isn't an answer to the question I gave you. Will you please answer the question?

A: Would you please repeat the question?

Q: Do I understand you made this investigation and tried to determine whether or not a person was a war criminal without knowing on which side the prisoners of war were?

A: I made researches regarding prisoners of war from the complaints which I received [...]

Q: Do you know who was the leader of the Indo-Chinese army?

A: General Martin.

Q: And was General Martin a representative of the Vichy Government?

A: I do not know.

Q: You were in charge of this Investigation Bureau, weren't you?

A: Yes.

Q: Well, wasn't it part of your duties to find out if these prisoners of war were guerrillas?

A: I have never considered these prisoners to belong to bands of guerrillas [this in contradiction to the answer given above and below. – C.P.]

Q: Well, what did you consider them to belong to?

A: To the Army.

Q: Whose army?

A: The French Army.

Q: What do you mean by the French Army?

A: I cannot give you a definition. It seems difficult to give you an immediate definition.

Q: Well, can you give us a definition tomorrow?

A: I think it would perhaps be possible.

Q: Can you tell me how many of these prisoners of war set forth in your statement were members of the Indo-Chinese Army?

A: They all belonged to the Army of Indo-China. [...]

MR. LOGAN: In your investigations did you also come across a document which gave the Japanese Army the right to go into Southern Indo-China in July, 1941?

A: I have never seen such a document.

Q: Now, isn't it a fact, Mr. Witness, that you know that the Vichy forces and the De Gaullist forces were fighting in Indo-China?

A: Fighting how? I don't know.

Q: You don't know? Do you know there two factions in Indo- China, the De Gaullist faction and the faction representing the legal Vichy Government? [...]

May I have an answer to the question? [...]

I think there is a question unanswered, Your Honor. Will the court reporter read the question? [...]

THE WITNESS: You are telling me about it.

Q: Well, is that true and do you know it?

A: What?

Q: Do you know it to be a fact that there were two factions in Indo-China, one representing the legal Vichy Government and one representing the De Gaullists? [...]

Q: During the course of your investigation, you, of course, found that that the Japanese troops entered Northern Indo-China in 1940, isn't that a fact?

A: The Japanese troops entered Northern Indo-China.

Q: And you also found out that they entered Southern Indo- China in 1941, isn't that so?

A: I have not worried about this question.

Q: Irrespective of whether you worried about it, have you found out that to be a fact?

A: The documentation which I have consulted does not allow me to answer that question – to give an answer to that question.

Q: Irrespective of the documents which you have consulted, is it a fact?

A: I say that it is possible but I cannot give any precisions.

*Q: Do you mean to tell us that you have made all these investigations and you do not know when the Japanese army entered Indo-China?*

A: I know that there were Japanese penetrated into Southern Indo-China but I do not know the exact date of the penetration.

Q: What is your best recollection on it?

THE PRESIDENT: This is utterly trifling [...] You are not testing his credibility effectively this way, Mr. Logan. It is possible that he does not know the exact date; I do not. I would have to refresh his memory from the evidence.

MR. LOGAN: I am not asking these questions, if the court Please, to test this witness' credibility. I am asking it to try to ascertain the facts...

Q: From your investigation what was the earliest year that you found out that the Japanese were in – entered Indo-China.

[Objection] [...]

MR. LOGAN: I prefaced my question by asking him whether or not he obtained this information from his investigation, which brings it squarely within the statement made by this witness on direct testimony. He has made this statement referring to various alleged atrocities. It is important to find out just when the Japanese army entered Indo-China to see if it was actually present at the time of these alleged atrocities and to investigate the further situation of the resistance troops operating in Indo-China.

THE PRESIDENT: The question is allowed. Objection overruled.

A: I cannot give you any precise date. I recollect some complaints which were – which date from 1943, 1942, 1945, 1946, but my recollections are not very, very clear on this point.

Q: Let me ask this, then. Is it a fact that after the Japanese troops entered Indo-China there sprang up a resistance movement?

A: The documents do not allow me to answer in a precise answer to this question.

Q: Well, what would allow you to answer that question?

A: I was at the war crimes office in charge of researches on crimes committed by the Japanese Army. Complaints were received and on the basis of these complaints I began my investigations. My work was a material work of researching what crimes had been committed and where the criminals were, so that they could be rounded up.

Q: Have you finished?

A: Yes.

Q: Yesterday you referred to the underground. Will you tell us what you meant by that?

A: During my researches I have sometimes found the word “resistance”, “underground”, in the documents which I have seen.

Q: Did you investigate to find out just what this underground or resistance was?

A: No.

Q: Weren't you interested, as the person in charge of the investigating bureau, to find out what this resistance was?

A: I did not take up that matter.

Q: Did you ask anybody else to take it up?

A: Absolutely not.

Q: Do I understand you, Mr. Witness, that you appear in this Tribunal and present affidavits where you mention “resistance group” and “underground”, and you mean to tell this Tribunal that you don't know what it means?



A: I do not understand – I do not very well understand the question as it has been translated.

MR. LOGAN: May I have it re-translated?

(Thereupon, the last question was re-translated.)

A: I did not present any affidavits to this Tribunal. I only —I have only told of them what I had done, or the work that I had done, in the war crimes office.

Q: Well, let me ask you this question: Do you, of your own knowledge, know what the resistance group was?

[Objection by the prosecutor] [...]

THE PRESIDENT: [...] I think the question is allowable and should be answered. It is quite a simple question.

A: I believe that I have already answered this question.

Q: Well, answer it again, will you, please?

A: I answered that in the documents that I had I found a few – several times, the word “resistance”.

Q: I understand what you said, Mr. Witness, but that isn’t the question I put. I am asking you now. Do you know, of your own knowledge, what the resistance movement was?

A: I have no precise knowledge on movements of the underground – movement of the resistance.

Q: Well, what was that movement?

A: What I could tell you could only be a repetition of what was told to me. That is hearsay, and I want to speak before this Tribunal only of things which I know by myself, in my own knowledge.

Q: Well now, Mr. Witness, as a matter of fact, *your entire affidavit submitted by you on direct is all hearsay*, isn’t it?

A: I did not say that what – that my deposition was based on affidavits, but on depositions of witnesses of victims of these crimes.

[Objection as to translation]

THE PRESIDENT: [...] After consulting with my colleagues, I think that the following questions are pertinent and I will ask the witness to answer them:

Did the members of the resistance wear uniforms?

THE WITNESS: I have not been able to ascertain it. [...]

[Probably “*Je n’ai pas pu le vérifier*”, a sort of halfway-house between “No” and “I don’t know”. – C.P.]

MR. LOGAN: Well, tell us what you heard this resistance was?

A: I practically have no knowledge of the movement – concerning the resistance movement. I only received complaints from victims of atrocities of the Japanese Army, and I confined my activities to that.

Q: Isn't it a fact that the resistance Movement was started in Indo-China against the Japanese and the Vichy Government in Indo- China?

A: The documentation which I have seen does not allow me to answer your question.

MR. LOGAN: If the Tribunal please, I think I have been patient about this. I think we ought to have a direction and make this witness answer these questions.

THE PRESIDENT: Witness, do you, in fact, know anything more than appears in the documents?

THE WITNESS: All that I have heard beyond that I considered as hearsay, and I cannot give evidence of these before this Tribunal.

THE PRESIDENT: You can. You are mistaken. You must answer from hearsay, but you can say the sources of your information.

THE WITNESS: I haven't heard any information on this point.

BY MR. LOGAN: (Continued):

Q: When you were in the Colonial Services of the French colonies, were you in the Vichy army or were you in the resistance Movement from that point onward?

A: I was mobilised – I was drafted February 1, 1943 – no: 1944.

Q: Do you understand English?

A: (In English) Very small.

Q: Was that year incorrect that was just given over the translation system?

A: (In English) It seems that the number – (In French) I think that the number given "4", is not exact – is not correct. It is "43".

Q: What time were you a member of the resistance Movement?

A: I was drafted February 1, 1943 in the French Army of Africa.

Q: Was that under the Vichy government or was that in the resistance Army?

A: In the French Army of Africa.

Q: Was that as a member of the resistance Group or a member of the forces of the Vichy government?

A: It was as a French citizen who was still under military obligations.

THE PRESIDENT: It is suggested to me that if you use the words "Free French" instead of "resistance", you might get more satisfactory answers.

Q: Were you a member of the Free French?

A: Since February 1, 1943 I belonged to the French Army of Africa, the only army which was in Africa.

Q: Were you under General Le Clerc?

A: I did not say that I was in Africa. I was in West of Africa – in French West of Africa.

Q: I didn't ask you that. Were you under General Le Clerc?

A: General Le Clerc was not in the West of Africa.

Q: Were you under him?

A: Absolutely not.

Q: Then you were under some general of the Vichy Government?

A: I do not think so.

Q: *Do you seriously want this Tribunal to understand from your testimony that you were fighting for France but you didn't know which army you were in?*

A: I was only thinking of fighting for France.

Q: And you didn't care which army you were in, is that it? And, furthermore, you don't know which army you were in, is that it?

A: I was in the French Army.

THE PRESIDENT: The French Government employed him on war crimes, apparently, and that is the Free French Government.

Q: From whom did you receive your pay from 1943 on?

A: The Disbursing Officer of my unit.

THE PRESIDENT: Mr. Logan, this is trifling. I say it again to any Member of the Tribunal having a similar view.

MR. LOGAN: It may be trifling, Your Honor, but to me it is more serious than that. A witness comes here and testifies the way he has. I'm trying to find out just what the situation was as he investigated it so that he can give this Tribunal some information on these alleged crimes.

BY MR. LOGAN: Tell me this: *Did you ever check to find out if any of the charges made in these affidavits which are submitted by you are false?*

A: It was not for me to judge whether the witnesses have made false depositions...

Q: And you made no check to find that out, is that it?

A: It was not in my province to judge of the exactitude of the directness of witness – of the depositions made.

Q: *Now, is it a fact that these people who claim to have suffered these alleged atrocities were members of the resistance Force?*

A: *Yes, certainly.*

Q: *And the civilians also mentioned in these affidavits, were they assisting the resistance Force?*

A: *Some did and some did not.*

Q: And General Martin was the one in charge of the resistance Force in Indo-China?

A: I do not know.

Q: Did you make any investigation to find out?

A: I did not try to find out.

MR. LOGAN: That is all.

**CROSS-EXAMINATION BY MR. SHIMANOUCHI**

Q: Mr. Witness, what is your age?

A: I was born on January 1, 1918.

Q: You testified, Mr. Witness, that you were a student prior to the war. Then you were drafted in the Army in September, 1942?

A: I stated that it was on February 1, 1943.

Q: Up to that time were you occupied in some profession or vocation?

A: I was a student, and then I went to Africa as a Colonial civil servant.

Q: What duties were you assigned to after you were drafted?

A: I was infantry platoon leader.

Q: Have you, Mr. Witness, before you took up your work with the War Crimes Office in September 1946, engaged in any legal business, either as a prosecutor or a lawyer?

A: Not at all. [...]

**CROSS-EXAMINATION BY MR. BROOKS**

Q: Mr. Witness, in your investigation, did you investigate to see if any of these alleged acts were taken by way of reprisal?

A: I think that in certain localities the Japanese may have been irritated by the actions – by the attitude of the French population.

Q: Did your investigation show that certain actions complained of were to suppress and deter the activities in resistance of franc-tireurs or others?

A: The massacres at Langson and other places certainly did not aim at suppressing the activities of franc-tireurs.

Q: Did your investigations uncover any actions that would classify the participants as franc-tireurs?

A: In my deposition I have not spoken of relations between the Japanese and those that may be called franc-tireurs.

Q: In other words, *you never made any investigations as to matters that might have been in justification of some of the actions to which you have referred?*

A: (No answer)

MR. BROOKS: I didn't get the answer.

THE PRESIDENT: *Did you try to discover any reason why the Japanese acted as they did?*

THE WITNESS: I did not try to discover any reasons [...]

MR. BROOKS: That is all.

MR. LOGAN: No further cross-examination. If the Tribunal please, at this time I move to strike out and disregard all the evidence presented of alleged atrocities in Indo-China on the ground that the evidence shows that these resistance troops were not lawful troops of France, they were fighting contrary to the orders of their own legally recognized government, and cannot claim rights are prisoners of war under international law but fall into the classification of guerrillas or franc-tireurs.

THE PRESIDENT: Of course, there is no such evidence as you claim, Mr. Logan. We will, at the proper time, pass judgement on the evidence we've heard [...]

[This despite the witness' clear admission that the victims were, in fact, members of the resistance.

Q: *Now, is it a fact that these people who claim to have suffered these alleged atrocities were members of the resistance Force?*

A: *Yes, certainly.*

Q: *And the civilians also mentioned in these affidavits, were they assisting the resistance Force?*

A: *Some did and some did not. – C.P.]*

The real problem is the admissibility of hearsay. As noted in the famous Dissident Judgement of R.B. Pal of India:

*“Exhibit 1574 is a statement taken out of court.... The name of the airman was given by this man as ‘Stan Woodbridge of Chingford, Essex, England’. We do not even know whether there was really any such airman in the R.A.F. and whether he is really dead.” (p. 1,212 of the section dedicated to the Dissident Judgement of R. B. Pal of India, volume 21, Tokyo Trial transcript.)*

Pal noted that nothing in international law gives the victor in war the power to legislate in international law. If the nations of the world wished to create such authority, they were free to do so, but the proper way to do so would be by means of a treaty; no such treaty exists.

Historically, most European wars were brought to a conclusion based on the terms of negotiated peace treaties containing an amnesty for all acts committed during the war, thus avoiding endless recriminations, renewed injustice, and serial wars related to the same problems. The modern world has largely abandoned this approach.

For further information in a relatively accessible form, search for Pal, Radhabinod. “Judgment”.

*The Dissident Judgment of R.B. Pal* is available on line in PDF form at [http://www.sdh-fact.com/CL02\\_1/65\\_S4.pdf](http://www.sdh-fact.com/CL02_1/65_S4.pdf). Published in book form in *The Tokyo Judgment: The International Military Tribunal for the Far East (IMTFE)* 29 April 1946 – 12 November 1948. Edited by B. V. A. Röling and C. F. Rüter. Amsterdam: University Press Amsterdam, 1977. Also published separately in Calcutta and Japan. This volume is currently out of print and nearly impossible to find.

All quotations taken from the complete 52,000 page, 21-volume transcript. This too is currently out of print and almost impossible to find except in a few large law libraries. Thirty years ago there were said to be only 4 copies of the original in the whole world.

[This article is excerpted from a forthcoming book by Carlos W. Porter, *War Crimes Trials and Other Essays*.]

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